

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

V.

CRIMINAL NO. 1:06-cr-81LG-JMR-001

TERRY RAY PRESTON

**ORDER GRANTING MOTION FOR SENTENCE
REDUCTION UNDER 18 U.S.C. § 3582(c)(2)**

This cause is before the Court on motion of the defendant, Terry Ray Preston [40], for retroactive application of the sentencing guidelines to his sentence pursuant to 18 U.S.C. § 3582(c)(2) based upon recent amendments to the sentencing guidelines applicable to offenses involving cocaine base, and the subsequent decision by the United States Sentencing Commission [Sentencing Commission] to make this amendment retroactive, pursuant to United States Sentencing Guideline § 1B1.10 [USSG] effective March 3, 2008.

Preston entered a guilty plea to counts 1 and 6 of the six count indictment on January 3, 2007. (Ct. R.) Preston was sentenced to term of 292 months as to count 1 of the indictment, possession with intent to distribute a controlled substance. (Ct. R., Doc. 28, p. 2.) He also received a 5 year term of supervised release, and was assessed \$100. (*Id.*, pp. 3, 5.) According to information provided by the United States Probation Office, Preston was held accountable for at least 1.5 kilograms of cocaine base, which yeilded a base level offense of 38. A three level reduction for acceptance of responsibility was applied, and he received a 2 level firearm enhancement, resulting in a total base offense level of 37. The guideline imprisonment range was 292-365 months, based on Preston's criminal history category of IV. Preston was sentenced to a term of 292 months imprisonment.

According to information provided by the United States Probation Office, under the amended Sentencing Guidelines, the new base offense level would be 36, and with the enhancement and reduction for acceptance of responsibility, the total offense level would become 35, based on the guideline amendment and with the calculations applied to the amendment provisions. The revised guideline imprisonment range would become 235 to 293 months.

The Court finds that the applicable sentence in this case should be 235 months, based on the previous sentence and pursuant to the Court's authority under 18 U.S.C. § 3582(c)(2) and Federal Rule of Criminal Procedure 43(b)(4).

IT IS THEREFORE ORDERED that the motion for change in sentence [40] pursuant to 18 U.S.C. § 3582(c)(2) be and is hereby granted. It is further,

ORDERED that the Defendant Terry Ray Preston's sentence be, and is hereby, reduced from 292 months to 235 months. It is further,

ORDERED that all other terms and provisions of the original judgment remain unchanged and in full force and effect.

SO ORDERED AND ADJUDGED this the 26th day of August, 2008.

s/ Louis Guirola, Jr.

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE